

**AFFINITY AGREEMENT  
THE UNIVERSITY OF OKLAHOMA**

This Agreement is executed this <sup>19<sup>th</sup></sup> day of December, 2006 effective as of the 1st day of May, 2007 (the "Effective Date") by and between FIA CARD SERVICES, N.A., a national banking association having its principal place of business in Wilmington, Delaware ("Bank") and the BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, a constitutional state university having its principal place of business in Norman, Oklahoma ("OU"), for themselves, and their respective successors and assigns.

1. DEFINITIONS

When used in this Agreement,

- (a) "Agreement" means this agreement and Schedules A and B.
- (b) "Bank Affiliate" means any entity which, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with Bank.
- (c) "Credit Card Account" means a credit card account opened in response to marketing efforts made pursuant to the Program. A "Student Credit Card Account" is a Credit Card Account which Bank designates as being opened by a Student Customer.
- (d) "Customer" means any Member who is a participant in the Program.
- (e) "Financial Service Product" means any credit card program, charge card program, and travel and entertainment card program. Provided, however, it shall not include the OneCard program or its equivalent, the OU procurement card program or any on-campus student financial program.
- (f) "Foundation" means The University of Oklahoma Foundation, Inc., a private Oklahoma not for profit corporation having OU as its exclusive beneficiary.
- (g) "Mailing List" means an updated and current list and/or magnetic tape containing names (including without limitation names of Members who are business owners or authorized officers), with corresponding last known valid postal addresses and, when available, telephone numbers (including area codes and e-mail addresses) of all Members who are at least eighteen (18) years of age, segmented by zip codes or reasonably selected membership characteristics mutually agreed to by the parties, but in no case to include confidential donor information (including information that would identify Member as a donor), and who have not affirmatively requested not to be contacted. In no event shall the Mailing List include "selected membership characteristics" not approved in advance by OU.
- (h) "Member" means an alumnus, donor, faculty, or staff member of OU and/or other potential participants mutually agreed to by OU and Bank.
- (i) "Program" means those programs and services of the Financial Service Products Bank agrees to offer pursuant to this Agreement to the Members from time to time.
- (j) "Royalties" means the compensation set forth in Schedule A.
- (k) "Trademarks" means any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark used or acquired by OU or any OU Affiliate during the term of this Agreement. Provided, however, Trademarks shall not include the OU seal.
- (l) "OU" means the University of Oklahoma Norman Campus.
- (m) "OU Affiliate" means any entity which, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with OU. Notwithstanding the foregoing, OU

Affiliate does not include the University of Oklahoma Health Sciences Center, Cameron University, Rogers State University, the Tulsa Schusterman Center or the Foundation.

- (n) "Reward Credit Card Account" means a consumer Credit Card Account carrying the Reward Enhancement and opened pursuant to the Program.
- (o) "Reward Enhancement" means the loyalty reward consumer Credit Card Account enhancement as provided through Bank and offered as part of the Program for Reward Credit Card Accounts. The Reward Enhancement may be marketed under another name (e.g. World Points), as determined by Bank from time to time, in its sole discretion.
- (p) "Student Customer" means any Member who is a student participant in the Program.
- (q) "Take-One Distributions" means a bank's marketing technique of placing credit card applications and/or disclosures on a table or counter so that anyone passing by may retrieve a copy.

## 2. RIGHTS AND RESPONSIBILITIES OF OU

- (a) Subject to Section 2(b), OU agrees that during the term of this Agreement it will, and will cause the Foundation to, endorse the Program exclusively and that neither the Foundation, OU nor any OU Affiliate shall, by itself or in conjunction with others, directly or indirectly: (i) sponsor, advertise, aid, develop, market, solicit proposals for programs offering, or discuss with any organization (other than Bank) the providing of any Financial Service Products of any organization other than Bank except to the extent any existing agreements have not yet expired as of the Effective Date of this Agreement; (ii) license or allow others to license or use the Trademarks in relation to or for promoting any Financial Service Product of any entity other than Bank, except to the extent any existing agreements have not yet expired as of the Effective Date of this Agreement; and (iii) sell, rent or otherwise make available or allow others to sell, rent or otherwise make available any of the Mailing List or information about any current or potential Members in relation to or for promoting any Financial Service Products of any entity other than Bank; and (iv) allow the use of tabling or postering to market any Financial Service Product at any events, except with respect to events sponsored by OU Student Financial Aid in regard to student loans, and, in such events, the products offered shall be limited to student loans, or the OU Credit Union. Provided, however, coaches in connection with their own arrangements with outside entities may endorse Financial Service Products and such endorsement will not be construed as a violation of this Agreement. Notwithstanding anything else in this Agreement to the contrary, OU may accept print advertising from any financial institution provided that the advertisement does not contain an express or implied endorsement by OU of said financial institution or advertising for a Financial Service Product.
- (b) Bank recognizes that OU has a retail banking services affinity agreement with another entity which does not include any Financial Service Products, and waives any claim for breach of this Agreement with respect to the services provided by such entity pursuant thereto so long as Financial Service Products do not become part of such agreement. Further, this Agreement does not apply to events sponsored by OU Student Financial Aid in regard to student loans, and, in such events, the products offered shall be limited to student loans. Moreover, there is a federal credit union associated with the University, the OU Credit Union, which is exempted from the terms of this Agreement; as is any OneCard or similar program offered as a type of debit/credit card based on a student's bursar's account. Additionally, OU is permitted during the last 12 (twelve) months of term of this Agreement to engage in discussions concerning prospective credit card services that would be effective upon the expiration or termination of this Agreement.
- (c) OU agrees to provide Bank with such information and assistance as may be reasonably requested by Bank in connection with the Program.
- (d) OU authorizes Bank to solicit Members by internet (Bank and Bank Affiliate website placement only; provided Bank executes a nonexclusive royalty free agreement with Collegiate Licensing Company in a format substantially similar to the one attached hereto and incorporated herein by reference) mail, email,

direct promotion, advertisements and/or telephone for participation in the Program. Provided, however, this does not include the right to solicit "Take-One Distributions" through Athletic Mailings nor to parents of students, and no rights to OU website placements nor the right to solicit faculty and staff by telephonic or email communication.

(e) OU shall have the right of prior approval of all Program advertising and solicitation materials to be used by Bank, which contain a Trademark; such approval shall not be unreasonably withheld or delayed. In the event that Bank incurs a cost because of a change in the Trademarks required by OU (e.g., the cost of reissuing new credit cards), Bank may deduct such costs from Royalties due OU. In the event such costs exceed Royalties then due OU, OU shall promptly reimburse Bank for all such costs.

(f) Within thirty (30) days following the request of Bank, OU shall provide Bank with the Mailing List, subject to Section 3(j), free of any charge; provided, however, that OU shall not include in any Mailing List the name and/or related information regarding any person who has expressly requested that OU not provide his/her personal information to third parties. In the event that Bank incurs a cost because of a charge assessed by OU or its agents for an initial Mailing List or an update to that list, Bank may deduct such costs from Royalties due OU. OU shall provide the first Mailing List, containing approximately the following number of names: Alumni/Friends/Donors/Faculty/Staff: 282,475; Athletics: 30,000 and Students: 22,464. The Mailing List shall have all corresponding contact information, and shall be provided as soon as possible, but no later than thirty (30) days prior to the Effective Date.

(g) OU shall, and shall cause any OU Affiliates to, only provide information to or otherwise communicate with Members or potential Members about the Program with Bank's prior written approval, except for current advertising and solicitation materials provided by Bank to OU, and such approval shall not be unreasonably withheld or delayed. Notwithstanding the above, OU may respond to individual inquiries about the Program from its Members on an individual basis, provided that said responses are accurate and consistent with the then-current materials provided by Bank to OU. Any correspondence received by OU that is intended for Bank (e.g., applications, payments, billing inquiries, etc.) shall be forwarded to the Bank account executive via overnight courier within 24 hours of receipt. All charges incurred for this service will be paid by Bank.

(h) OU hereby grants Bank and its affiliates a limited, exclusive license to use the Trademarks solely in conjunction with the Program, including the promotion thereof. This license shall be transferred upon any assignment of this Agreement pursuant to Section 11(g). This license shall remain in effect for the duration of this Agreement and shall apply to the Trademarks, notwithstanding the transfer of such Trademarks by operation of law or otherwise to any permitted successor, corporation, organization or individual. Subject to Section 10(g), upon termination or expiration of this Agreement, such license shall also terminate and Bank shall remove all Trademarks from its materials, products and services. OU shall provide Bank all Trademark production materials (e.g., camera ready art) required by Bank for the Program, as soon as possible but no later than thirty (30) days prior to the Effective Date. Nothing stated in this Agreement prohibits OU from granting to other persons a license to use the Trademarks in conjunction with the providing of any other service or product, except for any Financial Service Products. Provided, further, nothing in this Agreement prohibits the licensing of Trademarks, with respect to those agreements that have not yet expired by their terms upon the Effective Date.

### 3. RIGHTS AND RESPONSIBILITIES OF BANK

(a) Bank shall design, develop and administer the Program for the Members.

(b) Bank shall design all advertising, solicitation and promotional materials with regard to the Program. OU shall have the right of prior written approval of all new marketing advertising and solicitation materials created by Bank which contains a Trademark. Bank reserves the right of prior written approval of all advertising and solicitation materials concerning or related to the Program, which may be developed by or on behalf of OU. Such approvals shall not be unreasonably withheld or delayed.

- (c) Bank shall bear all costs of producing and mailing materials for the Program.
- (d) Bank shall make all credit decisions and shall bear all credit risks with respect to each Customer's account(s) independently of OU.
- (e) Bank shall use the Mailing Lists provided pursuant to this Agreement consistent with this Agreement, and consistent with subparagraph (l) below, and shall not permit those entities handling the Mailing Lists to use them for any purpose other than the Program. Bank shall have the sole right to designate Members on the Mailing Lists to whom promotional material will not be sent, but shall not include those individuals who have specifically requested that they not be contacted. The Mailing Lists are and shall remain the sole property of OU and/or the Foundation as applicable. However, Bank may maintain separately all information which it obtains as a result of an account relationship as noted in subparagraph (l) below. This information becomes a part of Bank's own files and shall not be subject to this Agreement; provided, however, that Bank will not use this separate information in a manner that would imply an endorsement by OU or the Foundation. Bank warrants that neither it nor those entities handling the Mailing Lists nor its assigns shall attempt to sell, license, transfer or assign or otherwise provide the Mailing Lists to third parties. Provided, further, Bank acknowledges that OU and the Foundation have determined that the Mailing Lists constitute protected trade secrets of OU and the Foundation.
- (f) The Bank, OU and the Foundation shall make best efforts to meet regularly to discuss and plan the promotion, operation, monitoring, evaluation, and management of the Program and to have individuals in attendance with decision-making authority.
- (g) Bank shall not be required to pay amounts to any third party (e.g., any producer, licensor(ee) or manufacturer of gifts and premiums) as royalties or other compensation otherwise due directly or indirectly to or on behalf of OU or an OU Affiliate for gifts or premiums. OU agrees to waive such payments from any such third party(ies) (and/or to cause the usual recipients(s) of such payments to waive such payment(s), and to execute and deliver (and/or to cause the usual recipient(s) of such payments to execute and deliver) to Bank such additional documentation as may be necessary or appropriate to give effect to this waiver. If a third party should refuse to give effect to OU's waiver by reducing the price to Bank for such gifts or premiums by the applicable amount (or any person shall otherwise prevent the realization of this benefit by Bank), then Bank is entitled to deduct such applicable amount(s) from all Royalties and/or Advance payments otherwise due OU.
- (h) Subject to applicable law and regulation and the terms of OU's agreement with Collegiate Licensing Company, Bank has the right to place Trademarks on gifts for individuals completing applications and on other premium items suitable in Bank's judgment for the solicitation of Credit Card Account applications including, but not limited to, fleece-blankets, T-shirts, knit hats, and duffel bags. OU shall have final approval of the use and appearance of the Trademarks used on such materials, but hereby grants Bank the right to use such approved materials at Bank's discretion. Bank shall enter into a nonexclusive royalty free licensing agreement with Collegiate Licensing Company in a format substantially similar to the one attached hereto and incorporated herein by reference, if necessary. Such premium giveaways are permitted only on OU facilities.
- (i) Bank shall indemnify, defend and hold OU, OU Affiliates, and their respective regents, trustees, officers, directors, employees, and agents harmless of any claim, loss, demand, cause of action or judgment based on Bank's, or its agents' negligent, acts or omissions under or relating in any way to this Agreement, and shall reimburse the indemnified parties for any costs or attorney's fees incurred by the indemnified parties as a result of Bank's, or its agents', acts or omissions. Bank shall ensure that a substantially identical indemnification clause in favor of the indemnified parties is contained in all third party agreements or subcontracts Bank executes with respect to this Agreement.
- (j) Bank shall indemnify, defend and hold the Foundation and its respective trustees, officers, directors, employees, and agents harmless of any claim, loss, demand, cause of action or judgment based on Bank's, or its agents', negligent acts or omissions under or relating in any way to the use, pursuant to this Agreement, of that portion of the Mailing List derived from the Foundation Database, and shall reimburse

the Foundation for any costs or attorney's fees incurred by the Foundation as a result of Bank's, or its agents', acts or omissions. Bank shall ensure that a substantially identical indemnification clause in favor of the Foundation is contained in all third party agreements or subcontracts Bank executes with respect to this Agreement.

(k) Subject to Section D(1) of Schedule A, Bank will make best efforts to schedule direct mail messages in a way so as not to create over-saturation of the targeted Customers. OU shall have the sole discretion to determine what constitutes over-saturation.

(l) The Foundation is a private not-for profit Oklahoma corporation whose exclusive beneficiary is OU. The Foundation owns, manages and administers a proprietary database that includes the names and addresses of individuals and businesses who have supported OU (the "Foundation Database"). OU and the Foundation have determined that the Foundation Database constitutes "trade secrets" that are private, valuable and confidential. Pursuant to agreements between the Foundation and OU, OU is required to maintain the privacy and confidentiality of the Foundation Database. Notwithstanding the foregoing, the Foundation acknowledges OU's obligations under this Agreement and desires to assist OU by permitting certain information from the Foundation Database to be incorporated in the Mailing Lists pursuant to the terms hereof.

(m) Bank's use of the Mailing Lists and Trademarks is limited to their use in connection with the Program and the Financial Service Products, and does not include the right to market at any events not sponsored and/or controlled by OU, including but not limited to, OU-Texas Football events, etc.

#### 4. REPRESENTATIONS AND WARRANTIES

(a) OU and Bank each represents and warrants to the other that as of the Effective Date and throughout the term of this Agreement:

(i) It is duly organized, validly existing and in good standing.

(ii) It has all necessary power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

(iii) This Agreement constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(iv) No consent, approval or authorization from any third party is required in connection with the negotiation, execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect.

(v) The execution, delivery and performance of this Agreement by such party will not constitute a violation of any law, rule, regulation, court order or ruling applicable to such party.

(b) OU represents to Bank as of the date hereof and throughout the term of this Agreement that it has the right and power to license the Trademarks to Bank for use as contemplated by this Agreement except as noted throughout, and to provide the Mailing List(s) to Bank for the promotion of the Program. To the extent permitted by law, OU will hold Bank, its directors, officers, agents, employees, affiliates, successors and assigns harmless from and against all liability, causes of action, and claims, and will reimburse Bank's reasonable and actual costs in connection therewith (including attorneys' fees), arising from the Trademark license granted herein or from Bank's use of the Trademarks in reliance thereon, or from the use of any Mailing List(s) by Bank for the promotion of the Program. Each party shall promptly notify the other party in the manner provided herein upon learning of any claims or complaints relating to such license or the use of any Trademarks.

(c) Bank will, subject to applicable law requiring their retention, return Mailing Lists and materials to OU or destroy them immediately upon the termination of this Agreement.

5. ROYALTIES

(a) During the term of this Agreement, Bank shall pay Royalties to OU. Royalties will not be paid without a completed Schedule B (W-9 Form and EFT Form). Except as otherwise provided in Schedule A, payment of Royalties then due shall be made approximately forty-five (45) days after the end of each calendar quarter

(b) On or before the forty fifth (45th) day after the end of each calendar quarter during the term of this Agreement, Bank will provide OU with a reconciliation report showing: (i) the number of consumer Credit Card Accounts opened, the number of consumer Credit Card Accounts renewed, (ii) the retail purchase transaction dollar volume (excluding those transactions that relate to refunds, returns and unauthorized transactions), made during the preceding calendar quarter on consumer Credit Card Accounts.

(c) Upon the written request of OU, but no more frequently than one (1) request in any twelve (12) month period, Bank shall provide OU with system reports generated by Bank containing all information which both (i) formed the basis of Bank's calculation of the Royalties due OU since the last request was made or, if no previous request was made hereunder, for the last four (4) Royalty calculations performed by Bank, and (ii) may be disclosed by Bank without violating any legal rights of any third party or obligation of Bank. Such reports shall be certified by an officer of Bank as to their accuracy; provided, however, that the reports shall be certified as to their accuracy by the nationally recognized independent certified public accountants then being utilized by Bank, at OU's expense, if OU so requests such accountants' certification in its written request(s) for the generation of such reports hereunder.

6. PROGRAM ADJUSTMENTS

Bank reserves the right to make periodic adjustments to the Program and its terms and features. In addition, Customers may be offered opportunities to select credit protection as a benefit under the Program and other services.

7. CONFIDENTIALITY OF AGREEMENT

The terms of this Agreement, the Mailing List and any proposal, financial information and proprietary information provided by or on behalf of one party to the other party prior to, contemporaneously with, or subsequent to, the execution of this Agreement ("Information") are confidential as of the date of disclosure. Such Information will not be disclosed by such other party to any other person or entity, except as permitted under this Agreement or as mutually agreed in writing. Bank and OU shall be permitted to disclose such Information (i) to their accountants, legal, financial and marketing advisors, and employees as necessary for the performance of their respective duties, provided that said persons agree to treat the Information as confidential in the above described manner and (ii) as required by law or requested by any governmental regulatory authority. Bank specifically recognizes that OU is a state agency and is subject to the Oklahoma Open Records Act. Notwithstanding the foregoing, OU agrees to immediately notify Bank and the Foundation of the existence, terms and circumstances surrounding any request(s) under such Act and to consult with Bank and the Foundation on the advisability of taking legally available steps to resist or narrow such request(s). Bank shall notify OU within two (2) business days in the event that it desires OU's cooperation in obtaining confidential treatment for all or part of the information requested under the Act.

8. TERM OF AGREEMENT

The initial term of this Agreement will begin on the Effective Date and end on April 30, 2017.

9. STATE LAW GOVERNING AGREEMENT

(Intentionally Deleted).

10. TERMINATION

(a) In the event of any material breach of this Agreement by Bank or OU, the other party may terminate this Agreement by giving notice and the opportunity to cure, as provided herein, to the breaching party. This notice shall (i) describe the material breach; and (ii) state the party's intention to terminate this Agreement. If the breaching party does not cure or substantially cure such breach within sixty (60) days after receipt of notice, as provided herein (the "Cure Period"), then this Agreement shall terminate sixty (60) days after expiration of the Cure Period.

(b) If either Bank or OU becomes insolvent in that its liabilities exceed its assets or it is unable to meet or it has ceased paying its obligations as they generally become due, or it is adjudicated insolvent, or takes advantage of or is subject to any insolvency proceeding, or makes an assignment for the benefit of creditors or is subject to receivership, conservatorship or liquidation then the other party may immediately terminate this Agreement.

(c) Upon termination of this Agreement, Bank shall, in a manner consistent with Section 10(d) of this Agreement, cease to use the Trademarks. Bank agrees that upon such termination it will not claim any right, title, or interest in or to the Trademarks or to the Mailing Lists provided pursuant to this Agreement. However, Bank may conclude all solicitation that is required by law.

(d) Bank shall have the right to prior review of any notice in connection with, relating or referring to the termination of this Agreement to be communicated by OU or any OU Affiliate to the Members. Upon termination of this Agreement, OU shall not attempt to cause the removal of OU's identification or Trademarks from any person's credit devices, access checks or records of any Customer existing as of the effective date of termination of this Agreement. Provided, however, upon termination or expiration of this Agreement, Bank shall have no right to continue use of the Trademarks after the next expiration date of a Customer's Credit Card; however, with respect to individual customer credit card accounts, the Trademarks shall be removed at each renewal period after the effective date of termination.

(e) In the event that any material change in any applicable law, statute, operating rule or regulation, or any material change in any operating rule or regulation of VISA, MasterCard or American Express makes the continued performance of this Agreement under the then current terms and conditions unduly burdensome, then Bank shall have the right to terminate this Agreement upon ninety (90) days advance written notice. Such written notice shall include an explanation and evidence of the burden imposed as a result of such change.

(f) For a one (1) year period following the termination of this Agreement for any reason, OU agrees that neither OU nor any OU Affiliate shall, by itself or in conjunction with others, directly or indirectly, specifically target any offer of a credit or charge card, or a credit or charge card product to persons who were Customers under the Program. Notwithstanding the foregoing, OU may, after termination of this Agreement, offer persons who were Customers the opportunity to participate in another credit or charge card program endorsed by OU provided the opportunity is not only made available to such persons but rather as a part of a general solicitation to all Members and provided further no such persons are directly or indirectly identified as a Customer of Bank, or offered any terms or incentives different from that offered to all Members.

(g) Upon termination of this Agreement for any reason, Bank shall remit any and all payments due and owing to OU within sixty (60) days of such termination. Further, Bank immediately shall cease using OU Trademarks on any and all advertisements connected with or referencing a relationship with OU and

shall return any camera ready art. Bank shall immediately return or destroy all Mailing Lists and materials to OU, and destroy any duplicate copies of said Mailing Lists and materials, except as provided in Section 3(e) above.

11. MISCELLANEOUS

(a) This Agreement cannot be amended except by written agreement signed by the authorized agents of both parties hereto.

(b) The obligations in Sections 3(h), 3(j), 4(b), 4(c), 5(c), 7, 10(c), 10(d), 10(f), 10(g), and 11(e) shall survive any termination of this Agreement.

(c) The failure of any party to exercise any rights under this Agreement shall not be deemed a waiver of such right or any other rights.

(d) The section captions are inserted only for convenience and are in no way to be construed as part of this Agreement.

(e) If any part of this Agreement shall for any reason be found or held invalid or unenforceable by any court or governmental agency of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of this Agreement which shall survive and be construed as if such invalid or unenforceable part had not been contained herein.

(f) All notices relating to this Agreement shall be in writing and shall be deemed given (i) upon receipt by hand delivery, facsimile or overnight courier, or (ii) three (3) business days after mailing by registered or certified mail, postage prepaid, return receipt requested. All notices shall be addressed as follows:

(1) If to OU:

University of Oklahoma  
660 Parrington Oval  
Suite 213  
Norman, Oklahoma 73019

ATTENTION: Mr. Joseph Harroz, Jr.  
Vice President and General Counsel

Fax #: (405) 325-7681

(2) If to Bank:

FIA Card Services, N. A.  
1100 North King Street  
Wilmington, Delaware 19884

ATTENTION: Card Group Senior Sales Executive

Fax #: (302) 432-0469

Any party may change the address to which communications are to be sent by giving notice, as provided herein, of such change of address.

(g) This Agreement contains the entire agreement of the parties with respect to the matters covered herein and supersedes all prior promises and agreements, written or oral, with respect to the matters covered herein. Without the prior written consent of the other which shall not be unreasonably withheld, neither party may assign any of its rights or obligations under or arising from this Agreement; provided however, that Bank may assign or transfer, without consent, its rights and or obligations under this Agreement: (i) to any individual, corporation or other entity (other than a Bank Affiliate) pursuant to a sale (other than a sale as described in subsection (ii) below), as long as such prospective buyer has sufficient assets to fulfill the requirements of this Agreement as well as substantially similar customer satisfaction standards as Bank; or (ii) to any individual, corporation or other entity ( other than a Bank Affiliate) pursuant to a merger, consolidation, or a sale of all or substantially all the assets of Bank so long as such prospective buyer has substantially similar customer satisfaction standards as Bank; or (iii) to any Bank Affiliate, so long as such Affiliate has substantially similar customer satisfaction standards as Bank and has sufficient assets to fulfill the requirements of this Agreement as well. Bank may utilize the services of any third party in fulfilling its obligations under this Agreement. Certain Financial Service Products or services under this Agreement may be offered through Bank's affiliates.

(h) Bank and OU are not agents, representatives or employees of each other and neither party shall have the power to obligate or bind the other in any manner except as otherwise expressly provided by this Agreement.

(i) Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any person other than OU and Bank, their successors and assigns, any rights or remedies under or by reason of this Agreement.

(j) Neither party shall be in breach hereunder by reason of its delay in the performance of or failure to perform any of its obligations herein if such delay or failure is caused by strikes or other labor disputes, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with governmental laws, rules, regulations, delays in transit or delivery, or any event beyond its reasonable control or without its fault or negligence.

(k) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(l) The Foundation shall be a third party beneficiary of this Agreement only with respect to those provisions that relate to use of that portion of the Mailing List(s) derived from the Foundation Database. .

IN WITNESS WHEREOF, each of the parties, by its representative, has executed this Agreement as of the Effective Date.

**BOARD OF REGENTS OF THE  
UNIVERSITY OF OKLAHOMA**

**FIA CARD SERVICES, N.A.**

By: David L. Boran

By: Lou Ziccarelli

Name: David L. Boran

Name: Lou ZICCARRELLI

Title: President

Title: SVP

Date: Dec. 19, 2006

Date: 1-10-07

## SCHEDULE A

### ROYALTY ARRANGEMENT

During the term of this Agreement, Bank will pay OU a Royalty calculated as follows, for those accounts with active charging privileges. All Royalty payments due hereunder are subject to adjustment by Bank for any prior overpayment of Royalties by Bank:

#### A. CONSUMER CREDIT CARD ACCOUNTS

1. \$1.00 (one dollar) for each new consumer Credit Card Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the consumer Credit Card Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed.
2. \$1.00 (one dollar) for each consumer Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each consumer Credit Card Account which: 1) has a balance greater than zero as of the last processing day of every twelfth month after the opening of that consumer Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
3. 0.50% (fifty basis points) of all retail purchase transaction dollar volume generated by Customers using a consumer Credit Card Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions, and/or (2) are cash equivalent transactions (e.g., the purchase of wire transfers, person to person money transfers, bets, lottery tickets, or casino gaming chips)).
4. \$1.00 (one dollar) for each new consumer Student Credit Card Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Student Customer within the first ninety (90) consecutive days of the consumer Student Credit Card Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed.
5. \$1.00 (one dollar) for each consumer Student Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each consumer Student Credit Card Account which: 1) has a balance greater than zero as of the last processing day of every twelfth month after the opening of that consumer Student Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
6. 0.40% (forty basis points) of all retail purchase transaction dollar volume generated by Student Customers using a consumer Student Credit Card Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions, and/or (2) are cash equivalent transactions (e.g., the purchase of wire transfers, person to person money transfers, bets, lottery tickets, or casino gaming chips)).

B. REWARD CREDIT CARD ACCOUNTS

Reward Credit Card Account Royalty compensation provisions shall not affect any other Royalty compensation provisions contained in the Agreement, and the Royalty compensation provisions referencing any other form of Credit Card Accounts shall not apply to Reward Credit Card Accounts.

1. \$1.00 (one dollar) for each new Reward Credit Card Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer within the first ninety (90) consecutive days of the Reward Credit Card Account's opening for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed. This Royalty will not be paid for any Credit Card Account which, after opening, converts to a Reward Credit Card Account .
2. \$1.00 (one dollar) for each Reward Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Reward Credit Card Account which: 1) has a balance greater than zero as of the last business day of the annual anniversary of the month in which the Reward Credit Card Account was opened; and 2) has had active charging privileges for each of the preceding twelve months. A Reward Credit Card Account may renew every twelve (12) months after the opening of the account.
3. 0.20% (twenty basis points) of all retail purchase transaction dollar volume generated by Customers using a consumer Reward Credit Card Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions, and/or (2) are cash equivalent transactions (e.g., the purchase of wire transfers, bets, lottery tickets, or casino gaming chips)).
4. \$1.00 (one dollar) for each new Reward Student Credit Card Account opened, which remains open for at least ninety (90) consecutive days and which is utilized by the Customer for at least one purchase or cash advance which is not subsequently rescinded, the subject of a charge back request, or otherwise disputed. This Royalty will not be paid for any Student Credit Card Account which, after opening, converts to a Reward Student Credit Card Account .
5. \$1.00 (one dollar) for each Reward Student Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by Bank (other than as a result of a courtesy waiver by Bank), then such Royalty will be paid for each Reward Student Credit Card Account which: 1) has a balance greater than zero as of the last business day of the annual anniversary of the month in which the Reward Student Credit Card Account was opened; and 2) has had active charging privileges for each of the preceding twelve months. A Reward Student Credit Card Account may renew every twelve (12) months after the opening of the account.
6. 0.20% (twenty basis points) of all retail purchase transaction dollar volume generated by Customers using a consumer Reward Student Credit Card Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions, and/or (2) are cash equivalent transactions (e.g., the purchase of wire transfers, bets, lottery tickets, or casino gaming chips)).

C. ROYALTY ADVANCES.

1. Upon the Effective Date of this Agreement, and upon the first (1<sup>st</sup>) annual anniversary of the Effective Date during the initial term of this Agreement, Bank shall pay to OU the sum of two million dollars (\$2,000,000) for each of those years, and upon the second (2<sup>nd</sup>), third (3<sup>rd</sup>),

fourth (4<sup>th</sup>), fifth (5<sup>th</sup>), sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) annual anniversaries of the Effective Date during the initial term of this Agreement, Bank shall pay to OU the sum of one million dollars (\$1,000,000) (each, an "Advance"), as an advance against future Royalties subject to the provisions set forth below. All Royalties accrued shall, in lieu of direct payment to OU, be applied against each of the Advances until such time as all Advances are fully recouped. Any Royalties accrued thereafter shall be paid to OU as set forth in this Agreement. Notwithstanding the foregoing, Bank shall no longer be obligated to pay any additional Advances to OU hereunder and OU hereby promises to pay Bank upon demand an amount equal to the difference between the total amount of the Advance(s) paid by Bank and the total amount of accrued Royalties credited by Bank against such Advance(s) as of the date of such demand, in the event of any of the conditions set forth in clauses (a) (i) through (vi) below should occur.

(a)

(i) the Agreement is terminated by OU, other than as a result of a material breach by Bank, prior to the end of the initial term as stated in the Agreement as of the Effective Date;

(ii) OU fails to cure a material breach of any obligation contained in Sections 2(a), 2(d), 2(f) and 2(h) under this Agreement within sixty (60) days of written notification by Bank of such material breach, regardless of whether Bank exercises its right to terminate the Agreement ;

(iii) Bank is prohibited or otherwise prevented from conducting at least six (6) direct mail campaigns to the full updated Mailing List during each consecutive twelve month period during the term of the Agreement due to no fault of its own;

(iv) Bank is prohibited or otherwise prevented from conducting at least four (4) telemarketing campaigns to the full updated Mailing List during each consecutive twelve month period during the term of the Agreement due to no fault of its own;

(v) Bank is prohibited or otherwise prevented from conducting at least two (2) e-mail campaigns to the full updated e-mail list of members, excluding faculty and staff of OU, during each consecutive twelve (12) month period during the term of the Agreement; and

(vi) Bank is prohibited due to no fault of its own from conducting on-campus promotion campaigns (e.g., tabling and postering) at major events( e.g., the events described in clauses a, b, and c below), during each consecutive twelve month period during the term of the Agreement, and OU is unable, within sixty (60) days of being notified of such by Bank, to provide a replacement marketing opportunity or campaign that, in Bank's reasonable opinion, will generate the same value (i.e., number of accounts, credit quality, and account usage) for Bank as the value Bank would have realized had such marketing opportunity or campaign not been prohibited or prevented. Bank shall not be obligated to pay any Advances during such sixty (60) day period, but if a Replacement Opportunity is provided, Bank shall make the Advance payment that was due during such sixty (60) day period. The events referred to above include the following:

- a) Up to eight (8) mutually agreed upon locations at each home football game with up to five (5) vendor passes per location.
- b) Up to two (2) mutually agreed upon locations at each home basketball game with up to five (5) vendor passes per location.
- c) One (1) mutually agreed upon location at campus-wide events such as Back-to-School

(b) In the event of an unintentional material breach of the Agreement by Bank that Bank uses its best efforts to cure upon notification but that subsequently results in termination of the Agreement by OU, Bank shall no longer be obligated to pay any additional Advances or Guarantee Amount to OU hereunder. However, this shall in no way restrict OU's ability to seek damages against Bank in the event OU terminates the Agreement prior to the aforementioned expiration date pursuant to Section 10(a). Notwithstanding the foregoing, OU shall not be obligated in the foregoing circumstance to pay Bank any Advances not fully earned by OU.

(c) If during any given year(s) during the initial term of this Agreement Bank recoups all prior Advances paid by it to OU in prior years, and pays OU Royalties accrued by OU over and above the Royalties used by Bank to recoup such prior Advance(s) (the "Paid Out Royalties") then Bank may reduce the amount of any subsequent Advance(s) due by the amount of any such Paid Out Royalties.

(d) In the event that OU breaches Section C1(a) (iii), (iv) or (v) above, Bank will notify OU within a reasonable amount of time and will not deem OU to be in breach so long as OU provides Bank a new marketing opportunity that, in Bank's reasonable opinion, will generate the same value (i.e., number of accounts, credit quality, account usage) for Bank as the value that Bank would have realized had such marketing opportunity or campaign not been prohibited or prevented ("Replacement Opportunity") within a reasonable time, but not more than sixty (60) days after receipt of Bank's notice, in order that Bank can, in its reasonable discretion, realize the value of the missed marketing opportunity. Bank shall not be obligated to pay any Advances during such sixty (60) day period, but if a Replacement Opportunity is provided, Bank shall make the Advance payment that was due during such sixty (60) day period.

D. ROYALTY GUARANTEE.

OU shall be guaranteed to accrue Royalties (including without limitation the amount of the Advances) equal to or greater than ten million dollars (\$10,000,000) (the "Guarantee Amount") by the end of the full initial term of the Agreement, subject to the provisions set forth below. If on the last day of the full initial term of this Agreement OU has not accrued \$10,000,000 in Royalties, Bank will pay OU an amount equal to the Guarantee Amount minus the sum of all compensation accrued by OU during the initial term of this Agreement and all unrecouped Advances. Notwithstanding the foregoing, this Royalty Guarantee and any obligation of Bank hereunder shall be expressly contingent upon the non-occurrence of any of the conditions set forth in Subsection C.1(a) above and expressly subject to Section C.1.(b) above.